THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7142 of 2007

Dated:09.04.2007

Between:

Smt.Hafeeza Begum and others.

... Petitioners

AND

The Joint Collector and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7142 of 2007

ORDER:

Petitioners 1 to 24, represented by their General Power of Attorney holder and petitioner No.25, filed the present Writ Petition challenging the order of the first respondent dated 08.11.2005 in Case No.F1/1678/2004, and seek a writ of mandamus declaring the said order as arbitrary, unreasonable and violative of Articles 14 and 300-A of the Constitution of India. They also seek a consequential direction to the first respondent to decide the appeal on merits.

The case of the petitioners in short is that their grandfather, Syed Mohammed Asghar Hussaini, was pattadar of agricultural land admeasuring Acs.402.20 guntas comprised in Survey Nos.250 to 265, 267, 272 to 279, 281, 293 to 295, 322, 323, 325 to 328 and 346 situated at Peddamberpet Kalan Village of Hayathnagar Mandal in Ranga Reddy District. According to them, their grandfather purchased the land under a registered sale deed bearing No.67/1303 Fasli. The land was allegedly shown as agricultural dry land in the Sethwar and classified as Makhta till 1984. But, in 1984 the land was converted as Dastagardhan (i.e., land which vested in the Government). It is alleged that respondents 4 to 14 filed petitions before the Inams Tribunal-cum-Revenue Divisional Officer under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act'), and obtained Occupancy Rights Certificates (ORCs) in respect of the land owned by their grandfather. It is their case that the Revenue Divisional Officer, second respondent herein, did not issue any notice and did not

conduct any proper enquiry and issued ORCs by proceedings No.H/1671/1981, dated 03.03.1984.

Aggrieved by the ORCs issued in favour of respondents 4 to 14, petitioners filed appeal under Section 24 of the Act in 2004. The same, being Case No.F1/1678/2004, dated 08.11.2005, was dismissed by the first respondent as barred by limitation, aggrieved by which, the present Writ Petition is filed.

Learned Counsel for the petitioners strenuously contends that when the second respondent did not follow the procedure as contemplated under the Act or the Rules made thereunder and issued ORCs to the contesting respondents without issuing notice to the petitioners, the Joint Collector ought to have entertained the appeal and passed orders on merits. He submits that it was the grandfather of the petitioners who was the owner of the land, but the contesting respondents played fraud in obtaining ORCs, though they are not entitled for the same. He also submits that the petitioners had no knowledge of the ORCs issued in favour of the contesting respondents, and therefore, the delay is not a bar for the Joint Collector to entertain the appeal.

The petitioners do not deny that respondents 4 to 14 were issued ORCs in 1984, and the appeal was filed by the petitioners after lapse of twenty years. They did not even file application for condonation of delay. They contended that they had no knowledge of the ORCs and that after coming to know about the same, they filed appeal. This was rejected by the Joint Collector placing reliance on Section 24 of the Act. As per Section 24 of the Act, an appeal has to be preferred within thirty days or within such time as may be allotted by the Joint Collector. The discretion is given to the Joint Collector to accept the appeal even after expiry of thirty days. In this case, having regard to the fact that the petitioners filed the appeal after lapse of twenty years, the Joint Collector rejected the same.

Be it noted, under Section 27 of the Limitation Act, 1963, at the expiry of the period of limitation, the right of a person to the property claimed shall be extinguished. Indeed, at this point of time, the petitioners cannot even maintain a suit for declaration or title having regard to the period of limitation. The impugned order does not suffer from any illegality or infirmity.

The Writ Petition is, therefore, dismissed. No costs.

(**V.V.S.RAO, J**)

09.04.2007
vs